

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DANIEL S. PORTER,

Case No. 3:22-cv-00089-RCJ-CLB

Petitioner,

ORDER

v.

GARRETT, et al.,

Respondents.

Daniel S. Porter has submitted a *pro se* petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). He has now paid the filing fee. The court has reviewed the petition pursuant to Habeas Rule 4, and it will be docketed and served on respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

Petitioner has also submitted a motion for appointment of counsel (ECF No. 1-2). There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481 U.S. 1023

1 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838
2 (1984). However, counsel must be appointed if the complexities of the case are such
3 that denial of counsel would amount to a denial of due process, and where the petitioner
4 is a person of such limited education as to be incapable of fairly presenting his claims.
5 See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th
6 Cir.1970). Here, Porter was convicted of several counts of sexual assault with a deadly
7 weapon and sentenced to an aggregate of 745 months to life. The legal issues he seeks
8 to raise may be complex, including the victim's identification of Porter as the perpetrator.
9 In order to ensure due process, the court grants Porter's motion for counsel.

10 **IT IS THEREFORE ORDERED** that the Clerk of Court detach, file, and
11 electronically serve the petition (ECF No. 1-1) on the respondents.

12 **IT IS FURTHER ORDERED** that the Clerk add Aaron D. Ford, Nevada Attorney
13 General, as counsel for respondents and provide respondents an electronic copy of all
14 items previously filed in this case by regenerating the Notice of Electronic Filing to the
15 office of the AG only.

16 **IT IS FURTHER ORDERED** that the Clerk detach and file petitioner's motion for
17 appointment of counsel (ECF No. 1-2).

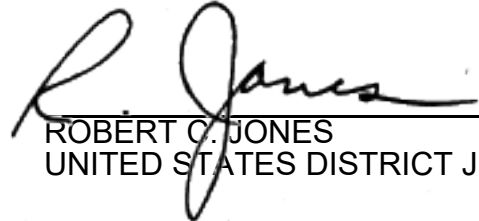
18 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel is
19 **GRANTED**.

20 **IT IS FURTHER ORDERED** that the Federal Public Defender for the District of
21 Nevada (FPD) is appointed to represent petitioner.

22 **IT IS FURTHER ORDERED** that the Clerk **ELECTRONICALLY SERVE** the FPD
23 a copy of this order, together with a copy of the petition for writ of habeas corpus (ECF
24 No. 1-1). The FPD has 30 days from the date of entry of this order to file a notice of
25 appearance or to indicate to the court its inability to represent petitioner in these
26 proceedings.
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1 **IT IS FURTHER ORDERED** that after counsel has appeared for petitioner in this
2 case, the court will issue a scheduling order, which will, among other things, set a
3 deadline for the filing of an amended petition.
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5 DATED: 30 March 2022.

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8 ROBERT C. JONES
9 UNITED STATES DISTRICT JUDGE
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